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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,270	09/25/2003	Kazuo Shiota	2091-0294P	3242
2292	7590	04/22/2008		
BIRCH STEWART KOLASCH & BIRCH			EXAMINER	
PO BOX 747			THERIAULT, STEVEN B	
FALLS CHURCH, VA 22040-0747				
		ART UNIT	PAPER NUMBER	
		2179		
		NOTIFICATION DATE	DELIVERY MODE	
		04/22/2008	ELECTRONIC	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

### Office Action Summary

**Application No.**

10/669,270

**Applicant(s)**

SHIOTA ET AL.

**Examiner**

STEVEN B. THERIAULT

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
- Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

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#### DETAILED ACTION

1. This action is responsive to the following communications: RCE filed 02/12/2008
2. Claims 1 -21 are pending in the case. Claims 1, 7, and 13 are the independent claims and the amended claims. Claims 19-21 are new claims.

#### *Continued Examination Under 37 CFR 1.114*

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/13/2008 has been entered.

#### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor

and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. **Claims 1- 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murashita et al. (Publication No. 2002/0186412), in view of Squibbs et al. (hereinafter Squibbs) U.S. Patent No. 6914626 filed Feb. 21, 2001.**

**As to independent claim 1, Murashita et al. teaches:**

A method for generating an album (see e.g., Para. [0216], lines 15 – 18; i.e., an album corresponds to an image database or personal album) based on album data (see e.g., Para. [0085]; i.e., album data corresponds to attaching labels and image data to the photo taken, wherein the image data at least comprises of date, time, and location data) including at least one image data set (see e.g., Para. [0194] – Para. [0213]; i.e., one image data set corresponds to each individual image having its own set of image data, for instance, "Image data 1" contains date, time, place, and authorized user data associated with "Image data 1"), which has been photographed during a trip (see e.g., Para. [0194] – Para. [0197]; i.e., "Image data 1" represents a photograph taken during a trip to "Nikko Toshogu Shrine") and which has time data (see e.g., Para. [0195]) representing a time of photography attached thereto (see e.g., Para. [0216], lines 1 – 6; i.e., "Image data 1" stores date and time of photographing), comprising the steps of: obtaining travel route data (see e.g., para. [0219], lines 1 – 5; i.e., traveling route reads information representing the date and time the photograph was taken, and the location where the photograph was taken to calculate the travel route), which includes data related to the route taken during the trip (see e.g., para. [0220], lines 1 – 6; i.e., the data related to the route taken during a trip corresponds to reading out both position information of two or more pictures taken, wherein the position information includes date and time, and location of where the picture has been taken) and times of passage through desired positions along the route (see e.g., para. [0023] and para. [0224], lines 1 – 6; i.e., the image data has date and time information, wherein the date and time

are calculated to signify the time of passage through a desired route, such as the departure position represented by "Nikko Toshogu Shrine" to the final destination point of "Kegon-no-taki Falls"); estimating a photography location (see e.g., para. [0225], lines 1 – 4; i.e., the photography location corresponds to the travel route based on the image data) based on the travel route data and the time data (see e.g., para. [0223]; travel route data and time data corresponds to the date and time the picture was taken and the location of the picture); obtaining related data (see e.g., para. [0225], lines 7 – 8; i.e., related data corresponds to regional information from base station 40C-1 through 40C-4), related to the estimated photography location (see e.g., para. [0225]; i.e., regional information is determined by the travel route and image data), from a related data storage means (see e.g., para. [0225], line 7; i.e., information storage device is used to determine the travel route and regional information) that stores a plurality of related data sets (see e.g., para. [0226], lines 1 – 3; i.e., regional information includes related data sets, such as label information and add-on information); and generating album data based on the obtained related data and the image data set (see e.g., para. [0229]; i.e., an image database or personal album is generated based on image data used for displaying travel route data, and regional information).

**Murashita does not expressly teach:**

- Wherein the related data is obtained by third party images photographed by a third party user correlated with the travel route data representing the time and position

Squibbs teaches a location informed camera that uses a variety of processes to determine the location of the camera and user while they are taking pictures and loading the camera data onto a server in real-time. Each user's information is recognized by their ID and the camera information including the GPS information is tracked and placed on a map in the map view mode for the purposes of displaying to the person or others the location and direction that the user has gone and plans to take. The family can browse where others in their family have gone and view the pictures they have taken at specific locations on the map (See column 3, lines 45-67 and column 4, lines 1-37). Squibbs teaches a process of matching separately generated image and location data by subscribing to a

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service to link a user's album and images to third party images uploaded for the purpose of determining the location of the photo taken and **matching** the location to the third party location data (See column 12, lines 64-67 and column 13, lines 1-67). Specifically, Squibbs teaches allowing the user to upload third party images to their catalog and then viewing a map of a location and then selecting a photo in the direction they are looking to determine the target point (See lines column 13, lines 30-41). Squibbs and Murashita both teach a process of tracking a user's location and providing information from others to determine their locations. They both teach generating albums with location information to view their images on a map to determine their location and to allow others to see where they have been.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention, having the teachings of Squibbs and Murashita in front of them, to modify the system of Murashita to incorporate the third party image download into the album to determine the user's location from the third party images. The motivation the suggestion to modify the system of Murashita comes from the suggestion in Squibbs that it is easy for a user to determine their location with the modern cell phones or cameras with equipped GPS devices **however, what is needed** is some way of uniting the location information with the photographs and in order to accommodate the separate provision for image and location data, which is signified by the metadata fields for image and location, the location field is not stored with the taken image and the user is then prompted to obtain the location information from a service that allows the camera or device to access a internet location to download third party images that have location information and using that data to determine the location of the image (See column 8, lines 59-63 and column 12, lines 60-67 and column 13, lines 19-43).

**As to dependent claim 2**, Murashita et al. teaches:

A method for generating an album (see e.g., para. [0216], lines 15 – 18; i.e., an album corresponds to an image database or personal album) as defined in claim 1, wherein: the travel route data is obtained based at least on data regarding (see e.g., para. [0225], lines 1 – 4; i.e., travel route data is

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based on the information labeled to the image data, such as when and where the picture was taken); a departure point (see e.g., para. [0224]; i.e., the departure point corresponds to "Nikko Toshogu Shrine"); a final destination (see e.g., para. [0224]; i.e., the final destination corresponds to "Kegon-no-taki Falls"); date and time of departure (see e.g., para. [0223]; i.e., the chart represents the departure date and time from "Nikko Toshogu Shrine"); date and time of arrival at the final destination (see e.g., para. [0223]; i.e., the chart represents the date and time of arrival at "Kegon-no-taki Falls"; and method of travel (see e.g., para. [0257], lines 8 – 18; i.e., the travel route data includes the method of travel, wherein the method of travel corresponds to walking).

**As to dependent claim 3, Murashita et al. teaches:**

A method for generating an album (see e.g., para. [0216], lines 15 – 18; i.e., an album corresponds to an image database or personal album) as defined in claim 1, wherein: GPS data is attached to the image data set (see e.g., para. [0134], lines 4 – 9; i.e., image data and GPS latitude and longitude position of the digital camera or mobile telephone are sent to a image data storage device 20B); and the travel route data is obtained based on the GPS data (see e.g., para. [0134], lines 6 – 8 and para. [0220], lines 1 – 7; i.e., travel route data obtained from GPS data corresponds to reading the position information of a picture, wherein the position information represents the longitude and latitude coordinates of the GPS data).

**As to dependent claim 4, Murashita et al. teaches:**

A method for generating an album (see e.g., para. [0216], lines 15 – 18; i.e., an album corresponds to an image database or personal album) as defined in claim 1, wherein: the travel route data is obtained (see e.g., para. [0134], lines 4 – 9; i.e., travel route data corresponds to image data stored in image storage device 20B, wherein the travel route data includes date and time of picture taken, and current position of the digital camera 10B) based on location data received by a cellular telephone (see e.g., para. [0134], lines 15 – 16; i.e., GPS-equipped mobile telephone is used in conjunction with the digital camera, wherein both digital camera 10B and GPS-equipped mobile telephone transfers image data and longitude/latitude coordinates to image data storage device 20B respectively).

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As to **dependent claim 5**, as indicated in the above discussion of claim 1, Murashita in view of Squibbs teach every limitation of claim 1.

Murashita does not expressly teach where the album data is stored on a website. However, this limitation would have been obvious to one of ordinary skill in the art at the time of the invention, in view of Squibbs, because Squibbs teaches a feature of storing the photo information in an external memory or database that is accessible on a network (See column 3, lines 17-37) for the purposes of displaying the photos in a map view. The motivation to combine Squibbs and Murashita comes from the suggestion in Squibbs that there are several ways to allow the user to manage, catalogue, and view their photos through a map database (See column 3, lines 35-40).

**As to dependent claim 6**, Murashita et al. teaches:

A method for generating an album as defined in claim 1, wherein: the album data is recorded in a recording medium (see e.g., para. [0122], lines 7 – 9; i.e., the recording medium used to store album data corresponds to an image database, such as image data storage device 20A, which can also be used as a user's personal album).

As to **dependent claim 19**, as indicated in the above discussion of claim 1, Murashita in view of Squibbs teach every limitation of claim 1.

Murashita does not expressly teach wherein the third party images are at least on of aerial photos, bird's eye view photo's or photo's obtained from prohibited spots or angles. However, this limitation would have been obvious to one of ordinary skill in the art at the time of the invention, in view of Squibbs, because Squibbs teaches a feature of displaying the subject/view on the map view of the third party views for the purposes of determining location as explained in claim 1 (See 35-42). The motivation to combine Squibbs and Murashita comes from the suggestion in Squibbs that there are several ways to allow the user to manage, catalogue, and view their photos through a map database and that there is a need to unite camera location data with photo data (See column 8, lines 59-63 and column 3, lines 35-40).



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**As to claims 7-12, 20** claims 7-12, 20 reflect the apparatus comprising computer readable instructions for performing the steps of method claims 1-6, 19 respectively, and are rejected along the same rationale.

**As to claims 13-18, 21** claims 13-18, 21 reflect the computer readable medium comprising computer readable instructions for performing the steps of method claims 1-6, 19 respectively, and are rejected along the same rationale.

**It is noted that any citation to specific, pages, columns, lines, or figures in the prior art references and any interpretation of the references should not be considered to be limiting in any way. A reference is relevant for all it contains and may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art. In re Heck, 699 F.2d 1331, 1332-33, 216 USPQ 1038, 1039 (Fed. Cir. 1983) (quoting In re Lemelson, 397 F.2d 1006, 1009, 158 USPQ 275, 277 (CCPA 1968)).**

#### ***Response to Arguments***

Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to STEVEN B. THERIAULT whose telephone number is (571)272-5867. The examiner can normally be reached on Mon.-Fri. 10 am - 7 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilin Lo can be reached on (571) 272-4847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Steven B Theriault/  
Examiner  
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